

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Shawn Bohannon

(b) County of Residence of First Listed Plaintiff Chester

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Law Offices of Robert T Vance Jr, 100 South Broad
Street, Suite 905, Philadelphia PA 19110 215 557 9550

DEFENDANTS

Kimberly-Clark Corporation

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> of Property 21 USC 881	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle		<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 850 Securities/Commodities/Exchange
				<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title VII of the Civil Rights Act of 1964, as amendedBrief description of cause:
Employment discrimination - race

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE NONE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

February 10, 2021

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Chester, Pennsylvania

Address of Defendant: Chester, Pennsylvania

Place of Accident, Incident or Transaction: Chester, Pennsylvania

RELATED CASE, IF ANY:

Case Number: NONE Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: February 10, 2021 *Robert T Vance Jr* 37692

 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ☒ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Robert T Vance Jr, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: February 10, 2021 *Robert T Vance Jr* 37692

 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

United States District Court for the Eastern District of Pennsylvania

Shawn Bohannon	:	
	:	
vs	:	Civil Action No.
	:	Jury Trial Demanded
Kimberly-Clark Corporation	:	

Complaint

Plaintiff, Shawn Bohannon, brings a series of claims against Defendant, Kimberly-Clark Corporation, of which the following is a statement:

Jurisdiction and Venue

1. This Court has original jurisdiction to hear this Complaint and adjudicate the claims stated herein under 28 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. §§ 2000d-2, 2000e-5(f), this action being brought under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d and 2000e et seq., the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“Section 1981”), and the Civil Rights Act of 1991, Pub. L. 102-166, 105 Stat. 1071 (Nov. 21, 1991), to redress and enjoin the discriminatory practices of defendant. This Court may exercise supplemental jurisdiction over Mr. Bohannon’s state law claim under the Pennsylvania Human Relations Act, 43 P.S. §951, et seq., (the “PHRA”), pursuant to 28 U.S.C. §1367.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

The Parties

3. Plaintiff, Shawn Bohannon, is an African-American male citizen of the United States and a resident of this judicial district.

4. Defendant Kimberly-Clark Corporation is a Delaware corporation that produces mostly paper-based consumer products. Defendant’s registered agent for service of process is

located at c/o CT Corporation System, 600 North 2nd Street, Suite 401, Harrisburg PA 17101.

Defendant has a principal place of business in Chester, Pennsylvania.

5. The acts set forth in this Complaint were authorized, ordered, condoned, ratified and/or done by defendant's officers, agents, employees and/or representatives while actively engaged in the management of defendant's business.

Background Facts

6. On or about June 12, 1988, defendant hired Mr. Bohannon for the position of Fiber Resource.

7. In or about 1998, defendant terminated Mr. Bohannon's employment.

8. In or about 2000, defendant rehired Mr. Bohannon to work at defendant's facility at 1 Avenue of the States, Chester, Pennsylvania. On or about June 10, 2005, defendant promoted Mr. Bohannon to the position of Pulp Level 4.

9. On or about August 28, 2017, after working for approximately three (3) hours, defendant's Asset Leader, Adrian Bryant, informed Mr. Bohannon that defendant's Human Resources Manager, Patricia Langdon, a White female, wanted to meet with him. Mr. Bohannon, a member of USW Local 10-448, asked Ms. Bryant whether he needed to be accompanied by his union shop steward. Ms. Bryant replied that he did not. When Mr. Bohannon entered Ms. Langdon's office, Sean Kelly, the Union President, was also present. Ms. Langdon had summoned Mr. Kelly to the meeting without informing him about the purpose of the meeting.

10. At that time at defendant, according to the Union Handbook, if a drug test of an employee is warranted, two (2) salaried employees and one (1) union representative must be present and the reason for demanding the drug test must be specified.

11. There were no supervisors or salaried employees present during the meeting with Ms. Langdon, and despite being asked by Mr. Bohannon and Mr. Kelly, she never specified the reason why Mr. Bohannon was being tested. She stated that Mr. Bohannon had to submit to the drug test or he would immediately be terminated for refusing to do so.

12. According to the Union Handbook and company policy at the time, a “for cause” drug or alcohol test is warranted when an employee exhibits one or more signs of being under the influence of drugs or alcohol. However, Mr. Bohannon did not exhibit any sign indicating that he might have been under the influence of drugs or alcohol.

13. Mr. Bohannon was at the drug testing facility for about five (5) hours.

14. Also, according to the Union Handbook and company policy at the time, two (2) salaried employees and the union shop steward have to agree that a drug test is warranted before an employee can be required to submit to drug testing. This did not occur in connection to the drug test administered to Mr. Bohannon that day.

15. Because of his race, defendant failed to comply with the Union Handbook and company policy in connection to requiring that Mr. Bohannon submit to drug testing. In contrast, defendant faithfully complied with the Union Handbook and company policy in connection to requiring non-Black employees to submit to drug testing.

16. For example, in the case of Sean Mues, a White male and a towmotor driver for defendant, defendant demanded that Mr. Mues submit to drug testing after he ran a stop sign and exhibited signs of being under the influence. Two of defendant’s salaried employees, Sue McBride, a White female, and Gail Whitehead, a Black female, and the union shop steward agreed that just cause was present and warranted that Mr. Mues submit to drug testing.

Defendant explained to Mr. Mues what constituted the just cause requiring him to submit to drug testing before he actually did so, all in the presence of a union shop steward.

17. In the case of Michael Albany, a White male and an Adjuster for defendant, he was caught sleeping on the job three (3) times, and as a result, defendant demanded that he submit to alcohol and drug testing. Two salaried employees, including Dan Falcone, a White male, and the shop steward, Mr. Kelly, agreed that alcohol and drug testing were warranted for Mr. Albany, and they explained to him the just cause related to that decision.

18. In the case of Brian Gill, a White male and a Bale Handler for defendant, he smelled of alcohol, and as a result, defendant demanded that he submit to alcohol and drug testing. Two salaried employees, Bib Birney, a White male, and Dave Burgio, a White male, and the shop steward, J.R. Cowan, a White male, agreed that alcohol and drug testing were warranted for Mr. Gill, and they explained to him the just cause related to that decision.

19. Mr. Bohannon passed the alcohol test. He attempted to provide an adequate sample for the drug test but was not able to do so. On his first attempt, the temperature strip on the specimen cup provided to him by the personnel at the testing facility in Ridley, Pennsylvania, did not achieve the required temperature, so the lab technician discarded the sample. On his second attempt, the specimen achieved the required temperature but the specimen cup was not filled to the required level, so the lab technician discarded that sample as well. Having been at the Laboratory for five (5) hours, Mr. Bohannon was not physically able to provide another urine sample. He informed Ms. Langdon that the lab technician had discarded the two urine samples, and that he physically was unable to provide another urine sample.

20. In response, Ms. Langdon demanded that Mr. Bohannon sign a "Refusal to Submit to Testing" form.

21. Mr. Bohannon told Ms. Langdon that he did not refuse to submit to testing and would not sign the form. In response, Ms. Langdon told him that whether he signed the form or not, he would be terminated.

22. Under duress, Mr. Bohannon signed the form, after which Ms. Langdon immediately terminated Mr. Bohannon's employment.

23. There was no just cause for defendant to demand that Mr. Bohannon submit to drug and alcohol testing because nothing about his behavior indicated in any way that he was under the influence of alcohol or drugs.

24. Defendant's demand that Mr. Bohannon submit to drug testing was motivated by race.

25. Defendant's decision to terminate Mr. Bohannon based on an alleged refusal to submit to drug and alcohol testing and/or his coerced signing of the Refusal to Submit to Testing form was motivated by race.

26. Mr. Bohannon has suffered, is now suffering and will continue to suffer emotional distress, mental anguish, loss of enjoyment of life and other non-pecuniary losses as a direct and proximate result of defendant's discrimination.

27. Defendant discriminated against Mr. Bohannon because of his race.

28. By reason of defendant's discrimination, Mr. Bohannon suffered extreme harm, including loss of income and other employment benefits, loss of professional opportunities, embarrassment and humiliation.

29. Defendant acted and failed to act willfully, maliciously, intentionally and with reckless disregard for Mr. Bohannon's rights.

Count I

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000d and 2000e et seq.

30. Plaintiff restates and realleges paragraphs 1-29, inclusive, as though set forth here in full.

31. Mr. Bohannon had a federal statutory right under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000d and 2000e et seq. (“Title VII”), to be accorded the same rights as were enjoyed by White employees with respect to the terms and conditions of their employment relationship with defendant and to the enjoyment of all benefits, privileges, terms and conditions of that relationship.

32. Defendant’s conduct deprived Mr. Bohannon of the rights, privileges and immunities guaranteed to him under Title VII.

33. By reason of defendant’s conduct, Mr. Bohannon is entitled to all legal and equitable relief available under Title VII.

Count II

Pennsylvania Human Relations Act, 43 P.S. §951 et seq.

34. Plaintiff restates and realleges paragraphs 1-33, inclusive, as though set forth here in full.

35. Defendant’s action in terminating Mr. Bohannon’s employment because of his race violated the Pennsylvania Human Relations Act (the “PHRA”).

36. Defendant’s conduct described above deprived Mr. Bohannon of the rights, privileges and immunities guaranteed to him under the PHRA.

37. By reason of defendant’s conduct, Mr. Bohannon is entitled to all legal and equitable relief available under the PHRA.

Jury Demand

38. Mr. Bohannon hereby demands a trial by jury as to all issues so triable.

Prayer for Relief

Wherefore, Plaintiff, Shawn Bohannon, respectfully prays that the Court:

- a. adjudge, decree and declare that defendant engaged in illegal race discrimination, and that the actions and practices of defendant complained of herein are violative of his rights under Title VII and the PHRA;
- b. order defendant to provide appropriate job relief to Mr. Bohannon, including reinstatement;
- c. enter judgment in favor of Mr. Bohannon and against defendant for all available remedies and damages under law and equity, including, but not limited to, back pay, front pay, reinstatement, past and future mental anguish and pain and suffering, in amounts to be determined at trial;
- d. order defendant to pay the attorney's fees, costs, expenses and expert witness fees of Mr. Bohannon associated with this case;
- e. grant such other and further legal and equitable relief as may be found appropriate and as the Court may deem just or equitable; and
- f. retain jurisdiction until such time as the Court is satisfied that defendant has remedied the unlawful and illegal practices complained of herein and is determined to be in full

compliance with the law.



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